

Conference Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 304

HOUSE BILL 2335

AN ACT

AMENDING SECTIONS 8-341, 8-348, 8-349, 8-395, 8-396, 13-1206 AND 13-1419, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 26, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2831; RELATING TO THE DEPARTMENT OF JUVENILE CORRECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-341, Arizona Revised Statutes, is amended
3 effective from and after September 1, 2002, to read:

4 8-341. Disposition and commitment; definitions

5 A. After receiving and considering the evidence on the proper
6 disposition of the case, the court may enter judgment as follows:

7 1. It may award a delinquent juvenile:

8 (a) To the care of the juvenile's parents, subject to supervision of
9 a probation department.

10 (b) To a probation department, subject to such ANY conditions as the
11 court may impose, including a period of incarceration in a juvenile detention
12 center of not more than one year.

13 (c) To a reputable citizen of good moral character, subject to the
14 supervision of a probation department.

15 (d) To a private agency or institution, subject to the supervision of
16 a probation officer.

17 (e) To the department of juvenile corrections.

18 (f) To maternal or paternal relatives, subject to the supervision of
19 a probation department.

20 (g) To an appropriate official of a foreign country of which the
21 juvenile is a foreign national who is unaccompanied by a parent or guardian
22 in this state to remain on unsupervised probation for at least one year on
23 the condition that the juvenile cooperate with that official.

24 2. It may award an incorrigible child:

25 (a) To the care of the child's parents, subject to the supervision of
26 a probation department.

27 (b) To the protective supervision of a probation department, subject
28 to such ANY conditions as the court may impose.

29 (c) To a reputable citizen of good moral character, subject to the
30 supervision of a probation department.

31 (d) To a public or private agency, subject to the supervision of a
32 probation department.

33 (e) To maternal or paternal relatives, subject to the supervision of
34 a probation department.

35 B. If a juvenile is placed on probation pursuant to this section, the
36 period of probation may continue until the juvenile's eighteenth birthday,
37 except that the term of probation shall not exceed one year if all of the
38 following apply:

39 1. The juvenile is not charged with a subsequent offense.

40 2. The juvenile has not been found in violation of a condition of
41 probation.

42 3. The court has not made a determination that it is in the best
43 interests of the juvenile or the public to require continued
44 supervision. The court shall state by minute entry or written order its
45 reasons for finding that continued supervision is required.

1 4. The offense for which the juvenile is placed on probation does not
2 involve the discharge, use or threatening exhibition of a deadly weapon or
3 dangerous instrument or the intentional or knowing infliction of serious
4 physical injury on another.

5 5. The offense for which the juvenile is placed on probation does not
6 involve a violation of title 13, chapter 14 or 35.1.

7 6. Restitution ordered pursuant to section 8-344 has been made.

8 C. If a juvenile is adjudicated as a first time felony juvenile
9 offender, the court shall provide the following written notice to the
10 juvenile:

11 You have been adjudicated a first time felony juvenile
12 offender. You are now on notice that if you are adjudicated of
13 another offense that would be a felony offense if committed by
14 an adult and if you commit the other offense when you are
15 fourteen years of age or older, you will be placed on juvenile
16 intensive probation, which may include home arrest and
17 electronic monitoring, or you may be placed on juvenile
18 intensive probation and may be incarcerated for a period of time
19 in a juvenile detention center, or you may be committed to the
20 department of juvenile corrections or you may be prosecuted as
21 an adult. If you are convicted as an adult of a felony offense
22 and you commit any other offense, you will be prosecuted as an
23 adult.

24 D. If a juvenile is fourteen years of age or older and is adjudicated
25 as a repeat felony juvenile offender, the juvenile court shall place the
26 juvenile on juvenile intensive probation, which may include home arrest and
27 electronic monitoring, may place the juvenile on juvenile intensive
28 probation, which may include incarceration for a period of time in a juvenile
29 detention center, or may commit the juvenile to the department of juvenile
30 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this
31 section for a significant period of time.

32 E. If the juvenile is adjudicated as a repeat felony juvenile
33 offender, the court shall provide the following written notice to the
34 juvenile:

35 You have been adjudicated a repeat felony juvenile
36 offender. You are now on notice that if you are arrested for
37 another offense that would be a felony offense if committed by
38 an adult and if you commit the other offense when you are
39 fifteen years of age or older, you will be tried as an adult in
40 the criminal division of the superior court. If you commit the
41 other offense when you are fourteen years of age or older, you
42 may be tried as an adult in the criminal division of the
43 superior court. If you are convicted as an adult, you will be
44 sentenced to a term of incarceration. If you are convicted as

1 an adult of a felony offense and you commit any other offense,
2 you will be prosecuted as an adult.

3 F. The failure or inability of the court to provide the notice
4 required under subsections C and E of this section does not preclude the use
5 of the prior adjudications for any purpose otherwise permitted.

6 G. After considering the nature of the offense and the age, physical
7 and mental condition and earning capacity of the juvenile, the court shall
8 order the juvenile to pay a reasonable monetary assessment if the court
9 determines that an assessment is in aid of rehabilitation. If the director
10 of the department of juvenile corrections determines that enforcement of an
11 order for monetary assessment as a term and condition of conditional liberty
12 is not cost-effective, the director may require the youth to perform an
13 equivalent amount of community service in lieu of the payment ordered as a
14 condition of conditional liberty.

15 H. If a child is adjudicated incorrigible, the court may impose a
16 monetary assessment on the child of not more than one hundred fifty dollars.

17 I. A juvenile who is charged with unlawful purchase, possession or
18 consumption of spirituous liquor is subject to section 8-323. The monetary
19 assessment for a conviction of unlawful purchase, possession or consumption
20 of spirituous liquor by a juvenile shall not exceed five hundred dollars. The
21 court of competent jurisdiction may order a monetary assessment or equivalent
22 community service.

23 J. The court shall require the monetary assessment imposed under
24 subsection G or H of this section on a juvenile who is not committed to the
25 department of juvenile corrections to be satisfied in one or both of the
26 following forms:

27 1. Monetary reimbursement by the juvenile in a lump sum or installment
28 payments through the clerk of the superior court for appropriate
29 distribution.

30 2. A program of work, not in conflict with regular schooling, to
31 repair damage to the victim's property, to provide community service or to
32 provide the juvenile with a job for wages. The court order for restitution
33 or monetary assessment shall specify, according to the dispositional program,
34 the amount of reimbursement and the portion of wages of either existing or
35 provided work that is to be credited toward satisfaction of the restitution
36 or assessment, or the nature of the work to be performed and the number of
37 hours to be spent working. The number of hours to be spent working shall be
38 set by the court based on the severity of the offense but shall not be less
39 than sixteen hours.

40 K. If a juvenile is committed to the department of juvenile
41 corrections the court shall specify the amount of the assessment imposed
42 pursuant to subsection G or H of this section.

43 L. After considering the length of stay guidelines developed pursuant
44 to section 41-2816, subsection C, the court may set forth in the order of
45 commitment the minimum period during which the juvenile shall remain in

1 secure care while in the custody of the department of juvenile corrections.
2 When the court awards a juvenile to the department of juvenile corrections
3 or an institution or agency, it shall transmit with the order of commitment
4 copies of a diagnostic psychological evaluation and educational assessment
5 if one has been administered, copies of the case report, all other
6 psychological and medical reports, restitution orders, ANY REQUEST FOR
7 POSTADJUDICATION NOTICE THAT HAS BEEN SUBMITTED BY A VICTIM and ANY other
8 documents or records pertaining to the case requested by the department of
9 juvenile corrections or an institution or agency. The department shall not
10 release a juvenile from secure care before the juvenile completes the length
11 of stay determined by the court in the commitment order unless the county
12 attorney in the county from which the juvenile was committed requests the
13 committing court to reduce the length of stay. The department may release
14 the juvenile from secure care without a further court order after the
15 juvenile completes the length of stay determined by the court or may retain
16 the juvenile in secure care for any period subsequent to the completion of
17 the length of stay in accordance with the law.

18 M. Written notice of the release of any juvenile pursuant to
19 subsection L of this section shall be made to any victim requesting notice,
20 the juvenile court that committed the juvenile and the county attorney of the
21 county from which the juvenile was committed.

22 N. Notwithstanding any law to the contrary, if a person is under the
23 supervision of the court as an adjudicated delinquent juvenile at the time
24 the person reaches eighteen years of age, treatment services may be provided
25 until the person reaches twenty-one years of age if the court, the person and
26 the state agree to the provision of the treatment and a motion to transfer
27 the person pursuant to section 8-327 has not been filed or has been
28 withdrawn. The court may terminate the provision of treatment services after
29 the person reaches eighteen years of age if the court determines that any of
30 the following apply:

- 31 1. The person is not progressing toward treatment goals.
- 32 2. The person terminates treatment.
- 33 3. The person commits a new offense after reaching eighteen years of
34 age.
- 35 4. Continued treatment is not required or is not in the best interests
36 of the state or the person.

37 O. On the request of a victim of an act that may have involved
38 significant exposure as defined in section 13-1415 or that if committed by
39 an adult would be a sexual offense, the prosecuting attorney shall petition
40 the adjudicating court to require that the juvenile be tested for the
41 presence of the human immunodeficiency virus. If the victim is a minor the
42 prosecuting attorney shall file this petition at the request of the victim's
43 parent or guardian. If the act committed against a victim is an act that if
44 committed by an adult would be a sexual offense or the court determines that
45 sufficient evidence exists to indicate that significant exposure occurred,

1 it shall order the department of juvenile corrections or the department of
2 health services to test the juvenile pursuant to section 13-1415.
3 Notwithstanding any law to the contrary, the department of juvenile
4 corrections and the department of health services shall release the test
5 results only to the victim, the delinquent juvenile, the delinquent
6 juvenile's parent or guardian and a minor victim's parent or guardian and
7 shall counsel them regarding the meaning and health implications of the
8 results.

9 P. If a juvenile has been adjudicated delinquent for an offense that
10 if committed by an adult would be a felony, the court shall provide the
11 department of public safety Arizona automated fingerprint identification
12 system established in section 41-2411 with the juvenile's fingerprints,
13 personal identification data and other pertinent information. If a juvenile
14 has been committed to the department of juvenile corrections the department
15 shall provide the fingerprints and information required by this subsection
16 to the Arizona automated fingerprint identification system. If the
17 juvenile's fingerprints and information have been previously submitted to the
18 Arizona automated fingerprint identification system the information is not
19 required to be resubmitted.

20 Q. ~~Access to fingerprint records submitted to the department of public~~
21 ~~safety Arizona automated fingerprint identification system pursuant to~~
22 ~~subsection P of this section shall be limited to the administration of~~
23 ~~criminal justice as defined in section 41-1750. Dissemination of FINGERPRINT~~
24 ~~information from the Arizona automated fingerprint identification system~~
25 ~~shall be limited to the name of the juvenile, juvenile case number, date of~~
26 ~~adjudication and court of adjudication.~~

27 R. For the purposes of this section:

28 1. "First time felony juvenile offender" means a juvenile who is
29 adjudicated delinquent for an offense that would be a felony offense if
30 committed by an adult.

31 2. "Repeat felony juvenile offender" means a juvenile to whom both of
32 the following apply:

33 (a) Is adjudicated delinquent for an offense that would be a felony
34 offense if committed by an adult.

35 (b) Previously has been adjudicated a first time felony juvenile
36 offender.

37 3. "Sexual offense" means oral sexual contact, sexual contact or
38 sexual intercourse as defined in section 13-1401.

39 Sec. 2. Section 8-348, Arizona Revised Statutes, is amended effective
40 from and after September 1, 2002, to read:

41 8-348. Setting aside adjudication; application; release from
42 disabilities; exceptions; definitions

43 A. Except as provided in subsections C and D of this section, a person
44 who is at least eighteen years of age, who has been adjudicated delinquent
45 or incorrigible and who has fulfilled the conditions of probation and

1 discharge ordered by the court or ~~received absolute discharge~~ WHO IS
2 DISCHARGED from the department of juvenile corrections PURSUANT TO SECTION
3 41-2820 ON SUCCESSFUL COMPLETION OF THE INDIVIDUAL TREATMENT PLAN may apply
4 to the juvenile court to set aside the adjudication. The court or the
5 department of juvenile corrections shall inform the person of this right at
6 the time the person is discharged. The person or, if authorized in writing,
7 the person's attorney, probation officer or parole officer may apply to set
8 aside the adjudication. A copy of the application shall be served on the
9 prosecutor.

10 B. If the court grants the application, the court shall set aside the
11 adjudication and shall order that the person be released from all penalties
12 and disabilities resulting from the adjudication except those imposed by the
13 department of transportation pursuant to section 28-3304, 28-3306, 28-3307
14 or 28-3308. Regardless of whether the court sets aside the adjudication, the
15 adjudication may be used for any purpose as provided in section 8-207 or
16 13-501 and the department of transportation may use the adjudication for the
17 purposes of enforcing the provisions of section 28-3304, 28-3306, 28-3307 or
18 28-3308 as if the adjudication had not been set aside.

19 C. A person may not apply to set aside the adjudication if the person
20 either:

21 1. Has been convicted of a criminal offense.
22 2. Has a criminal charge pending.
23 3. Has not successfully completed all of the terms and conditions of
24 probation or ~~received an absolute discharge~~ BEEN DISCHARGED from the
25 department of juvenile corrections PURSUANT TO SECTION 41-2820 ON SUCCESSFUL
26 COMPLETION OF THE INDIVIDUALIZED TREATMENT PLAN.

27 4. Has not paid in full all restitution and monetary assessments.

28 D. This section does not apply to a person who was adjudicated
29 delinquent for any of the following:

30 1. An offense involving the infliction of serious physical injury.

31 2. An offense involving the use or exhibition of a deadly weapon or
32 dangerous instrument.

33 3. An offense in violation of title 13, chapter 14.

34 4. An offense in violation of section 28-1381, 28-1382, 28-1383 or
35 28-3473.

36 5. A civil traffic violation under title 28, chapter 3.

37 E. For the purposes of this section:

38 1. "Dangerous instrument" and "deadly weapon" have the same meaning
39 prescribed in section 13-105.

40 2. "Serious physical injury" has the same meaning prescribed in
41 section 13-105.

1 Sec. 3. Section 8-349, Arizona Revised Statutes, is amended effective
2 from and after September 1, 2002, to read:

3 8-349. Destruction of juvenile records; electronic research
4 records

5 A. A person who has been referred to juvenile court may apply for
6 destruction of the person's juvenile court and department of juvenile
7 corrections records.

8 B. If the records concern a referral or citation that did not result
9 in further action or that resulted in diversion, placement in a community
10 based alternative program or an adjudication for an offense other than an
11 offense listed in section 13-501, subsection A or B or title 28, chapter 4,
12 the person shall file an application with the juvenile court and shall serve
13 a copy of the application on the county attorney in the county in which the
14 referral was made. The person shall certify under oath that all of the
15 following apply:

16 1. The person is at least eighteen years of age.

17 2. The person has not been convicted of a felony offense or
18 adjudicated delinquent for an offense that would be an offense listed in
19 section 13-501, subsection A or B or title 28, chapter 4.

20 3. A criminal charge is not pending.

21 4. The person has successfully completed all of the terms and
22 conditions of court ordered probation or ~~received an absolute discharge~~ BEEN
23 DISCHARGED from the department of juvenile corrections PURSUANT TO SECTION
24 41-2820 ON SUCCESSFUL COMPLETION OF THE INDIVIDUALIZED TREATMENT PLAN.

25 5. All restitution and monetary assessments have been paid in full.

26 C. The juvenile court may order the destruction of records under
27 subsection B of this section if the court finds all of the following:

28 1. The person is at least eighteen years of age.

29 2. The person has not been convicted of a felony offense.

30 3. A criminal charge is not pending.

31 4. The person was not adjudicated for an offense listed in section
32 13-501, subsection A or B or title 28, chapter 4.

33 5. The person successfully completed all of the terms and conditions
34 of probation or ~~received an absolute discharge~~ WAS DISCHARGED from the
35 department of juvenile corrections PURSUANT TO SECTION 41-2820 ON SUCCESSFUL
36 COMPLETION OF THE INDIVIDUALIZED TREATMENT PLAN.

37 6. All restitution and monetary assessments have been paid in full.

38 7. The destruction of the records is in the interests of justice.

39 8. The destruction of the records would further the rehabilitative
40 process of the applicant.

41 D. If the records concern a referral that resulted in an adjudication
42 of delinquency for an offense not subject to subsection B of this section the
43 person shall file the application with the juvenile court and shall serve a
44 copy of the application on the county attorney in the county in which the

1 referral was made. The person shall certify under oath that all of the
2 following apply:

- 3 1. The person is at least twenty-five years of age.
- 4 2. The person has not been convicted of a felony offense.
- 5 3. A criminal charge is not pending.
- 6 4. The person has successfully completed all of the terms and
7 conditions of court ordered probation or received ~~an absolute discharge~~ BEEN
8 DISCHARGED from the department of juvenile corrections PURSUANT TO SECTION
9 41-2820 ON SUCCESSFUL COMPLETION OF THE INDIVIDUALIZED TREATMENT PLAN.

10 5. All restitution and monetary assessments have been paid in full.
11 E. The juvenile court may order the destruction of records under
12 subsection D of this section if the county attorney does not object within
13 ninety days after the date of the notice and the court finds that all of the
14 following apply:

- 15 1. The person is at least twenty-five years of age.
- 16 2. The person has not been convicted of a felony offense.
- 17 3. A criminal charge is not pending.
- 18 4. The person has successfully completed all of the terms and
19 conditions of probation, including the payment of all restitution, or
20 received ~~an absolute discharge~~ BEEN DISCHARGED from the department of
21 juvenile corrections PURSUANT TO SECTION 41-2820 ON SUCCESSFUL COMPLETION OF
22 THE INDIVIDUALIZED TREATMENT PLAN.
- 23 5. All restitution and monetary assessments have been paid in full.
- 24 6. The destruction of the records would be in the interests of
25 justice.
- 26 7. The destruction of the records would further the rehabilitative
27 process of the applicant.

28 F. The juvenile court and the department of juvenile corrections may
29 store any records for research purposes.

30 Sec. 4. Section 8-395, Arizona Revised Statutes, is amended effective
31 from and after September 1, 2002, to read:

32 8-395. Notice of postadjudication release; right to be heard;
33 hearing; final decision

34 A. The victim has the right to be present and be heard at any
35 proceeding in which postadjudication release from confinement is being
36 considered AND THE RIGHT TO SUBMIT A STATEMENT TO THE DEPARTMENT OF JUVENILE
37 CORRECTIONS WHEN A REQUEST FOR DISCHARGE ON SUCCESSFUL COMPLETION OF THE
38 INDIVIDUALIZED TREATMENT PLAN IS CONSIDERED PURSUANT TO SECTION 41-2820.

39 B. If the victim has made a request for postadjudication notice, the
40 ~~department of juvenile corrections~~, at least fifteen days before the hearing
41 OR BEFORE THE JUVENILE'S DISCHARGE IS CONSIDERED PURSUANT TO SECTION 41-2820,
42 THE DEPARTMENT OF JUVENILE CORRECTIONS shall give to the victim written
43 notice of the hearing and of the victim's right to be present and be heard
44 at the hearing OR TO SUBMIT A STATEMENT TO THE DEPARTMENT REGARDING THE
45 REQUEST FOR DISCHARGE.

1 C. If the victim has made a request for postadjudication notice, the
2 department of juvenile corrections shall give notice to the victim of the
3 decision reached by the department. The department shall mail the notice
4 within fifteen days after the department reaches its decision.

5 Sec. 5. Section 8-396, Arizona Revised Statutes, is amended effective
6 from and after September 1, 2002, to read:

7 8-396. Notice of probation modification, termination or
8 revocation disposition matters; notice of arrest

9 A. On request of the victim, the court shall notify the victim of any
10 probation revocation disposition proceeding or any proceeding in which the
11 court is asked to terminate the probation or intensive probation of the
12 delinquent who committed the delinquent act against the victim.

13 B. IF A VICTIM HAS REQUESTED POSTADJUDICATION NOTICE AND PROBATION IS
14 REVOKED, THE COURT SHALL PROVIDE A COPY OF THE VICTIM'S REQUEST FOR
15 POSTADJUDICATION NOTICE TO THE DEPARTMENT OF JUVENILE CORRECTIONS.

16 ~~B.~~ C. On request of the victim, the court shall notify the victim of
17 ANY OF THE FOLLOWING:

18 1. A modification of the terms of probation or intensive probation of
19 a delinquent only if the modification will substantially affect the
20 delinquent's contact with or the safety of the victim or if the modification
21 affects restitution or incarceration status.

22 ~~C.~~ 2. ~~On request of the victim, the court shall notify the victim of~~
23 ~~The arrest of a delinquent pursuant to a warrant issued for a probation~~
24 ~~violation.~~

25 D. On request of the victim, the department of juvenile corrections
26 shall notify the victim of ANY OF THE FOLLOWING:

27 1. Any proceeding in which the department may revoke the conditional
28 liberty of the delinquent who committed the delinquent act against the
29 victim.

30 ~~E.~~ 2. ~~On request of the victim, the department of juvenile~~
31 ~~corrections shall notify the victim of~~ A modification of the terms of
32 conditional liberty only if the modification will substantially affect the
33 delinquent's contact with the victim or the safety of the victim or if the
34 modification affects restitution or secure care status.

35 ~~F.~~ 3. ~~On request of the victim, the department of juvenile~~
36 ~~corrections shall notify the victim of~~ The arrest of a delinquent pursuant
37 to a warrant issued for a conditional liberty violation.

38 Sec. 6. Section 13-1206, Arizona Revised Statutes, is amended
39 effective from and after September 1, 2002, to read:

40 13-1206. Dangerous or deadly assault by prisoner or juvenile;
41 classification

42 A person, while in the custody of the state department of corrections,
43 the department of juvenile corrections, a law enforcement agency or a county
44 or city jail, who commits an assault involving the discharge, use or
45 threatening exhibition of a deadly weapon or dangerous instrument or who

1 intentionally or knowingly inflicts serious physical injury upon another
2 person is guilty of a class 2 felony. If the person is an adult or is a
3 juvenile convicted as an adult pursuant to section 8-327 OR 13-501 or the
4 rules of procedure for the juvenile court, the person shall not be eligible
5 for suspension of sentence, probation, pardon or release from confinement on
6 any basis until the sentence imposed by the court has been served or
7 commuted. A sentence imposed pursuant to this section shall be consecutive
8 to any other sentence presently being served by the convicted person.

9 Sec. 7. Section 13-1419, Arizona Revised Statutes, is amended
10 effective from and after September 1, 2002, to read:

11 13-1419. Unlawful sexual conduct; correctional employees;
12 persons in custody; classification

13 A. A person who is employed by the state department of corrections,
14 the department of juvenile corrections, a private prison facility or a city
15 or county jail or who contracts to provide services with the state department
16 of corrections, the department of juvenile corrections, a private prison
17 facility or a city or county jail commits unlawful sexual conduct by engaging
18 in oral sexual contact, sexual contact or sexual intercourse with a person
19 who is in the custody of the STATE department OF CORRECTIONS, THE DEPARTMENT
20 OF JUVENILE CORRECTIONS, a private prison facility or a city or county jail
21 or with an offender who is under the supervision of the EITHER department or
22 a city or county.

23 B. A prisoner who is in the custody of the state department of
24 corrections, a private prison facility or a city or county jail or an
25 offender who is on release status and who is under the supervision of the
26 state department of corrections or a city or county commits unlawful sexual
27 conduct by engaging in oral sexual contact, sexual contact or sexual
28 intercourse with a person who is employed by the state department of
29 corrections, a private prison facility or a city or county jail or who
30 contracts to provide services with the state department of corrections, a
31 private prison facility or a city or county jail.

32 C. This section does not apply to:

33 1. A person who is employed by the state department of corrections,
34 a private prison facility or a city or county jail or who contracts to
35 provide services with the state department of corrections, a private prison
36 facility or a city or county jail or an offender who is on release status if
37 the person was lawfully married to the prisoner or offender on release status
38 before the prisoner or offender was sentenced to the state department of
39 corrections or was incarcerated in a city or county jail.

40 2. An offender who is on release status and who was lawfully married
41 to a person who is employed by the state department of corrections, a private
42 prison facility or a city or county jail or who contracts to provide services
43 with the state department of corrections, a private prison facility or a city
44 or county jail if the marriage occurred prior to the offender being sentenced

1 to the state department of corrections or incarcerated in a city or county
2 jail.

3 D. Unlawful sexual conduct with a person under the age of fifteen is
4 a class 2 felony. Unlawful sexual conduct with a person between the ages of
5 fifteen and seventeen is a class 3 felony. All other unlawful sexual conduct
6 is a class 5 felony.

7 Sec. 8. Title 41, chapter 26, article 2, Arizona Revised Statutes, is
8 amended by adding section 41-2831, to read:

9 41-2831. State educational system for committed youth; report

10 A. THE DIRECTOR SHALL ESTABLISH A STATE EDUCATIONAL SYSTEM FOR
11 COMMITTED YOUTH FOR THE COMMON AND HIGH SCHOOL EDUCATION OF COMMITTED YOUTH.

12 B. THE DIRECTOR SHALL IDENTIFY THREE PERSONS WHO ARE QUALIFIED TO
13 SERVE AS SUPERINTENDENT OF THE STATE EDUCATIONAL SYSTEM FOR COMMITTED YOUTH.
14 THE DIRECTOR AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL AGREE ON ONE
15 OF THE THREE PERSONS WHOM THE DIRECTOR SHALL EMPLOY AS SUPERINTENDENT TO
16 MANAGE THE EDUCATIONAL SYSTEM. THE SUPERINTENDENT OF THE EDUCATIONAL SYSTEM
17 SHALL EMPLOY TEACHERS AND OTHER PERSONNEL AS NEEDED IN ACCORDANCE WITH
18 CHAPTER 4, ARTICLE 5 OF THIS TITLE, SUBJECT TO THE APPROVAL OF THE DIRECTOR.
19 ALL PERSONS WHO ARE EMPLOYED TO WORK IN THE EDUCATIONAL SYSTEM INCLUDING THE
20 SUPERINTENDENT SHALL HOLD THE APPROPRIATE CERTIFICATE PRESCRIBED BY THE STATE
21 BOARD OF EDUCATION IN SECTION 15-203, SUBSECTION A, PARAGRAPH 14.

22 C. THE DIRECTOR SHALL CAUSE TO BE IMPLEMENTED THE COURSE OF STUDY FOR
23 YOUTH WHO ARE ENROLLED IN THE STATE EDUCATIONAL SYSTEM FOR COMMITTED YOUTH.

24 D. THE DIRECTOR SHALL CONSIDER THE INCLUSION OF FACTORS RELATED TO A
25 PUPIL'S ACADEMIC PROGRESS AND STANDARDS OF BEHAVIOR AS PART OF THE LENGTH OF
26 STAY GUIDELINES ADOPTED AS PRESCRIBED IN SECTION 41-2816.

27 E. THE STATE EDUCATIONAL SYSTEM FOR COMMITTED YOUTH SHALL PROVIDE
28 APPROPRIATE EDUCATION TO ALL COMMITTED YOUTH AS REQUIRED BY STATE AND FEDERAL
29 LAW. IF NOT OTHERWISE REQUIRED BY LAW, THE EDUCATIONAL SYSTEM SHALL PROVIDE
30 AN APPROPRIATE EDUCATION TO ALL COMMITTED YOUTH WHO HAVE NOT RECEIVED A HIGH
31 SCHOOL DIPLOMA OR A HIGH SCHOOL CERTIFICATE OF EQUIVALENCY.

32 F. ON ENTRANCE OF A YOUTH TO THE STATE EDUCATIONAL SYSTEM FOR
33 COMMITTED YOUTH, THE EDUCATIONAL SYSTEM SHALL ADMINISTER A BASIC SKILLS
34 EXAMINATION TO THE YOUTH TO DETERMINE THE EDUCATIONAL NEEDS OF THE YOUTH. A
35 SIMILAR EXAMINATION SHALL BE ADMINISTERED ON THE YOUTH'S EXIT FROM THE
36 EDUCATIONAL SYSTEM TO ASSESS THE YOUTH'S PROGRESS WHILE ENROLLED IN THE
37 EDUCATIONAL SYSTEM.

38 G. THE DEPARTMENT IS ENTITLED TO RECEIVE EQUALIZATION ASSISTANCE FOR
39 THE COSTS OF THE STATE EDUCATIONAL SYSTEM FOR COMMITTED YOUTH AS PROVIDED IN
40 TITLE 15, CHAPTER 11.1.

41 H. THE SUPERINTENDENT SHALL:

42 1. KEEP RECORDS AND PROVIDE INFORMATION AS THE DEPARTMENT OF EDUCATION
43 REQUIRES TO DETERMINE THE APPROPRIATE AMOUNT OF EQUALIZATION ASSISTANCE.

44 2. PREPARE AN ANNUAL FINANCIAL REPORT CONTAINING INFORMATION SIMILAR
45 TO THAT PROVIDED BY SCHOOL DISTRICTS IN THE REPORT PRESCRIBED IN SECTION

1 15-904 IN A FORMAT PRESCRIBED BY THE DEPARTMENT OF ADMINISTRATION IN
2 CONSULTATION WITH THE AUDITOR GENERAL AND SUBMIT THE REPORT TO THE GOVERNOR,
3 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE AND
4 THE DEPARTMENT OF EDUCATION BY NOVEMBER 1. WHEN SUBMITTING THE REPORT TO THE
5 SPEAKER AND PRESIDENT, THE SUPERINTENDENT SHALL SEND A COPY OF THE REPORT TO
6 THE CHAIRMEN OF THE HOUSE AND SENATE EDUCATION COMMITTEES AND SHALL SEND A
7 NOTICE TO ALL OTHER LEGISLATORS THAT THE REPORT IS AVAILABLE ON REQUEST.

8 3. ESTABLISH A SYSTEM FOR COMMUNICATING WITH EACH YOUTH'S SCHOOL
9 DISTRICT OF RESIDENCE IN ORDER TO FACILITATE THE TRANSFER OF RECORDS, THE
10 DETERMINATION OF THE MOST APPROPRIATE EDUCATIONAL PROGRAM AND THE TRANSFER
11 OF EDUCATIONAL CREDIT.

12 I. THE DEPARTMENT OF ADMINISTRATION SHALL DEVELOP AND MAINTAIN A
13 SPECIAL PAY PLAN FOR TEACHERS AND OTHER PROFESSIONAL EDUCATIONAL PERSONNEL
14 WITHIN THE STATE EDUCATIONAL SYSTEM FOR COMMITTED YOUTH. THE PAY PLAN SHALL
15 ATTEMPT TO KEEP SALARIES AT A COMPARABLE LEVEL TO THAT OF PUBLIC SCHOOL
16 DISTRICT PERSONNEL. RECOMMENDATIONS FOR THIS PAY PLAN SHALL BE INCLUDED
17 WITHIN THE DEPARTMENT OF ADMINISTRATION'S ANNUAL RECOMMENDATION TO THE
18 LEGISLATURE PURSUANT TO SECTION 41-763.01.

19 Sec. 9. Retroactivity

20 Section 41-2831, Arizona Revised Statutes, as added by this act, is
21 effective retroactively to from and after June 30, 2000.

22 Sec. 10. Emergency

23 This act is an emergency measure that is necessary to preserve the
24 public peace, health or safety and is operative immediately as provided by
25 law.

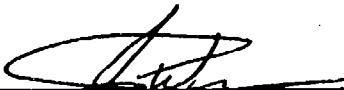
APPROVED BY THE GOVERNOR MAY 23, 2002.


FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 24, 2002.

Passed the House March 26, 2002,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

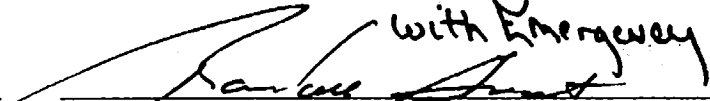

Speaker of the House



Chief Clerk of the House

Passed the Senate April 17, 2002

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2335

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 15, 2002,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting
with emergency

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 16, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting
with emergency

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 17 day of May, 2002

at 8:45 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 23 day of
May, 2002,

at 11 o'clock 9 M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of May, 2002,

at 11:46 o'clock A M.

[Signature]
Secretary of State

H.B. 2335